

E-017/M-91-817 ORDER APPROVING REGULATORY COMPLIANCE PLAN AS
MODIFIED AND REQUIRING ADDITIONAL FILINGS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
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Cynthia A. Kitlinski
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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Otter Tail
Power Company's Request for
Variance From Certain Customer
Service Rules to Implement a
PowerStat Pre-Paid Metering
System Pilot Project

ISSUE DATE: October 26, 1993

DOCKET NO. E-017/M-91-817

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REQUIRING ADDITIONAL FILINGS

PROCEDURAL HISTORY

On November 21, 1990, Otter Tail Power Company (OTP or the Company) filed its proposed 1991 Conservation Improvement Program (CIP) with the Minnesota Department of Public Service (the Department). Included in OTP's 1991 proposed CIP was a one-year PowerStat pre-paid metering pilot project. The Company started the pilot program in January 1991 without requesting approval from the Commission for the variances relating to the billing and disconnection of service rules necessary for the program.

On August 19, 1993, the Commissioner of the Department of Public Service approved the PowerStat project as a CIP and directed OTP to obtain appropriate variances from the Commission before implementing the project.

On October 21, 1991, OTP filed a request for the variances.

On June 26, 1992, the Commission issued its ORDER DENYING VARIANCE, DISALLOWING POWERSTAT EXPENSES, AND REQUIRING REGULATORY COMPLIANCE PLAN. In that Order, the Commission required the Company to file a regulatory compliance plan within 45 days of the Order.

On August 10, 1992, the Company filed its regulatory compliance plan.

On September 21, 1992, the Department filed comments and on November 9, 1993, the Company filed a response, agreeing with the Department's recommendations.

On December 23, 1992, the Commission issued its ORDER ACCEPTING COMPANY'S PLAN AS MODIFIED AND REQUIRING FURTHER FILINGS. This Order directed the Company to file an update on its regulatory compliance plan in February 1993 including 1) a memorandum from top management on regulatory compliance; 2) an employee manual section on regulation of OTP; 3) a regulatory checklist; 4) a description of a regulatory training program; and 5) a plan evaluation and description of proposed changes.

On February 10, 1993, the Company filed an update for its regulatory compliance plan. This update included several exhibits containing the following:

- * an over-all guide to the regulatory compliance plan which indicated those components that have been completed and those that have not been completed;
- * a summary of the Commission's and the Department's rules and their applicability to OTP;
- * a Minnesota regulatory calendar;
- * a memo from OTP's President and CEO addressing regulatory compliance; and
- * an outline for regulatory training that will be part of new employee orientation and an outline for the Public Utilities Report (PUR) Guide course.

On May 4, 1993, the Department filed a letter commenting on the Company's filing. The Department commended OTP on its ongoing regulatory compliance activities. The Department recommended that the Commission approve OTP's Regulatory Compliance plan with the following modifications:

- * establish a schedule for providing regulatory training for managers;
- * provide both written and oral regulatory training programs;
- * develop specific regulatory training sessions to deal with the ongoing issues of regulation, as specified in the summary report; and
- * develop decision tree models to assist corporate personnel in evaluating regulatory matters.

On August 10, 1993, the Company made a filing stating that it agreed with the general contents of the Department's May 4, 1993 letter. The Company also reported the current status of the plan components and included status reports on various dockets OTP had filed with the Commission that the Company uses to keep track of the filings.

On September 23, 1993, the Department filed comments on the Company's August 10 filing.

On October 14, 1993, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

In this Order, the Commission reviews OTP's February 10 and August 10, 1993 compliance filings which were made in response to the Commission's December 23, 1992 Order. In that Order, the Commission identified four elements of OTP's Regulatory Compliance Plan that needed to be modified or strengthened. The Commission also directed the Company to include an evaluation of its plan and describe any proposed changes.

1. Plan Evaluation

The Company's filing listed in Exhibit A the proposed components of the regulatory compliance plan and whether they were completed. The Commission finds that this is adequate to fulfill the intended objective of the plan description and proposed changes to the plan.

2. Employee Manual

The Commission directed the Company to provide a section in its employee manual that would inform employees of management's commitment to regulatory compliance. The Company has included a policy statement on regulatory relations that satisfies the Commission's Order in that respect.

The Order also required OTP to include a section in its employee manual providing an overview of regulation and its relevance to the Company. The intent was for a short section of one to four pages covering at least: what parts of OTP are regulated, who regulates those parts, what is the purpose of regulation, how regulation affects OTP, and how the regulated business differs from the non-regulated. The Company has not prepared such a section and will be directed to do so in this Order.

3. Regulatory Checklist

In its December 23, 1992 Order, the Commission directed the Company to prepare a regulatory checklist. In its compliance filing, the Company identified its list and summary of the Commission and Department rules as its general checklist. This is not what the Commission intended as a checklist. The Commission clarifies that a general overall checklist, similar to a decision tree, would be used in conjunction with the Regulatory Compliance Worksheet to identify the one-time or exception-type of filing, such as the one which the Company failed to make regarding the PowerStat pre-paid metering pilot project, which led to requiring the filing of a Regulatory Compliance Plan.

To further elucidate, the Commission provides the following example of such a checklist: 1) Is what is being proposed related to or part of regulated service provided to customers or an affiliated interest? 2) Is there a rule or statute that covers what is being proposed? 3) Is the idea being proposed covered by the general rules, regulations, terms and conditions found in the Company's tariff book? 4) Is the item covered by the Uniform System of Accounts? 5) If the item is covered by any of the above, does it conform to the requirements or is a variance required?¹

4. Training

Regulatory training is a critical part of the compliance process. If the employees do not have knowledge of nor understand regulation, then it is unlikely compliance will be achieved.

General Employees: In its plan OTP included an outline for an introduction to regulation which is included as part of its new employee orientation. That information supplemented with the employee manual section on regulation should provide adequate information for the general employee. Once the employee manual section is completed OTP will have developed the training for all general employees.

Management Employees: the Regulatory Compliance Plan states that managerial personnel will receive regulatory information at twice a year managers' meetings. OTP's plan indicates it will develop a periodic Corporate Regulatory Bulletin to inform all employees of current regulatory matters. This is inadequate and should be supplemented.

¹ The example provided is for illustrative purposes only and is not intended to be a recommendation or all inclusive.

Non-Managerial Employees who work with regulatory related issues in their job: the Company's February 10, 1993 filing did not discuss what training, if any, will be provided for non-managerial employees who work with regulatory related issues in their jobs. In its August 10, 1993 update filing, however, the Company stated that it had selected 32 employees to take the PUR Guide course. These employees include managers, employees with regulatory related duties, and employees with no regulatory related duties.

The Commission finds that training is an area in the plan that requires further development. The Commission will require the Company to develop a training program/course for managers, supervisors, and affected staff workers that would cover Minnesota statutes and rules governing regulation. The content could be an overview of the statutes and rules, how they affect the Company, and what the Company does now to comply with the rules. The Commission recognizes that the PUR Guide course could be useful as part of the training for all these employees. For example, Part I and II of the PUR Guide self-study course should provide adequate regulatory background for management.

Commission Action

Having reviewed the filings in this matter and spoken with the parties at the hearing, the Commission finds that the efforts undertaken in this docket to strengthen OTP's compliance policies and practices show promise. The Company has made a good start on its plan and that the Commission does not need to exercise continuing oversight of the plan. The Commission will require the Company to file an update on its plan in six months i.e. April 15, 1994. In that update, the Company will have the opportunity to demonstrate that it has implemented the recommendations that the Commission orders in this docket. Thereafter, additional filings of this nature will be on an annual basis, for informational purposes only, and require no Commission action.

While convinced by the precipitating incident in this matter that close attention to the Company's regulatory compliance capability was warranted, the Commission has been watchful lest its engagement with the Company on these matters exceed the need. The Commission is encouraged to hear from the Company that it also views these exertions to be beneficial to the Company.

ORDER

1. Otter Tail Power Company's (OTP's or the Company's) updated Regulatory Compliance Plan is approved as modified in this Order. Specifically, the Company shall

- a. develop a section in the employee manual describing regulation and how it relates to OTP;
 - b. develop a general checklist and/or decision tree as a resource for determining activities requiring Commission approval;
 - c. develop departmental decision tree models to assist corporate personnel in evaluating regulatory matters;
 - d. develop a training program for non-managerial employees with regulatory duties;
 - e. establish a schedule for providing regulatory training for employees with regulatory duties and managers;
 - f. develop specific regulatory training sessions to deal with the ongoing issues of regulation; and
 - g. develop a training program covering Minnesota statutes and rules governing regulation.
2. On April 15, 1994, the Company shall make a compliance filing showing implementation of the Plan as modified herein.
 3. Thereafter, further compliance filings shall be made no more frequently than annually. These filings will be for informational purposes only and will require no Commission action.
 4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Susan Mackenzie
Acting Executive Secretary

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